

INSTRUCTIONS FOR COMPLETING THE COMPLAINT FORM

FRONT OF THE COMPLAINT FORM

Clearly **print** or **type** all information.

1. Fill in the full name and address of the person your complaint is against.
2. Fill in your name and address, and the patient's name and birth date.
3. Complete this section if your complaint involves a child custody issue. If it pertains to an evaluation, please include a copy of the report. If it pertains to court testimony, please include a copy of the court transcripts. If you do not have full or joint legal custody, we may be limited in our ability to pursue the complaint.
4. Write your complaint and include as many specific details as possible (who, what, when, where, how, why). Include the date(s) of treatment and specific examples of the problems with the care and treatment. **Please use extra sheets of paper, if needed.** Send us copies of any documents that substantiate your complaint. This may include patient records, photographs, correspondence, billing statements, reports, etc.
5. Sign and date the complaint form at the bottom of the front page and keep a copy for your records.

BACK OF THE COMPLAINT FORM

Complete the Authorization for Release of Records section on the back of the complaint form as follows:

- This document is a legal authorization for the Board of Psychology/Medical Board Investigation Unit staff to obtain information about the patient's care from the doctor involved in the treatment. **ANY EXTRA COMMENTS, NOTATIONS, ETC., MAKE THE FORM VOID, AND WE WILL HAVE TO ASK YOU TO FILL OUT ANOTHER RELEASE FORM.** If you wish to provide us with additional information, please do so on a separate piece of paper. This form, when it is filled out and signed, allows the Board of Psychology/Medical Board Investigation Unit to get records from ONLY the doctors you list on this records release form.
- **Print or Type the patient's name and date of birth.**
- **Print or type the names and addresses of all of the patient's health care providers** you want the Board to consult regarding this complaint. Put the name of the person you are complaining about in the first section. Then use the other sections for the other health care providers.
- **Sign the release form.** The release form must be signed and dated by either the patient or the individual legally authorized to make medical decisions for the patient. If the patient is unable to sign the release, the form may be signed by: 1) the parent of a minor child (parent must have legal custody of child) or 2) the person named by the patient in a signed "Power of Attorney" granting the person authority to make **medical decisions** for the patient (provide a copy of this document).

THE COMPLAINT AND DISCIPLINARY PROCESS:

The California Board of Psychology has authority over licensed psychologists, registered psychologists and registered psychological assistants in California and has the authority to enforce the provisions of the Laws and Regulations Related to the Practice of Psychology (within the California Business and Professions Code and California Code of Regulations). The Board also handles complaints for the unlicensed practice of psychology.

Complaints involving allegations that are not within the jurisdiction of the Board will be returned to the complainant with information about other agencies or organizations that may be better able to assist the complainant. Allegations that are not within the authority of the Board include fee/billing disputes, general business practices, personality conflicts, providers who are licensed by other boards/bureaus such as social workers, marriage family therapists, educational psychologists, psychiatrists, and psychiatric technicians.

You may file a complaint with the Board of Psychology by using the attached Consumer Complaint Form or by submitting it electronically from the Board's website:

www.psychboard.ca.gov.

Anonymous complaints will be reviewed by the Board although it may be impossible to pursue them unless they contain documented evidence of the allegations made.

Allegations of **unlicensed practice** will be investigated by the Board and, if sufficient evidence is found, will be forwarded to the local District Attorney's Office for criminal prosecution. Please submit proof of the unlicensed practice with your complaint (i.e. appointment card, invoices, website information, advertisements, business letterhead etc.).

Allegations of misconduct by a psychologist working in an **exempt setting** should be directed to the agency overseeing the setting:

- State mental hospitals - Department of Mental Health
- Correctional facilities – Department of Corrections
- Educational institutions – Agency overseeing the particular institution

If the agency takes action against a psychologist, then that information should be forwarded to the Board for review.

Complaints concerning **child custody issues** must include, not only a release signed by the complaining party, but a release for each child involved signed by the adult with legal custody. If applicable, a copy of the order appointing custody, the order appointing the psychologist evaluator, and the evaluation or testimony in question, must also accompany the complaint.

Upon receipt, your complaint will be assigned to a Consumer Services Analyst for review.

Within 10 days of receipt of the complaint, you will be notified of receipt. The analyst will gather the information necessary to review and evaluate your complaint. The information necessary may include patient records or written reports, a written response from the subject of the complaint, an opinion from a board consultant psychologist, or possibly, a legal opinion. If the complaint file is sent for consultant review, the complainant will be notified.

If the review determines that the actions of the psychologist were not below the Standard of Care for psychologists, the Board has no authority to proceed, and the complaint will be closed. If the Board finds that the care fell below the Standard of Care, but does not represent gross negligence, generally the complaint will be closed and will be maintained on file for the Board's future reference. Often, complaints such as these are dealt with through a variety of non-disciplinary methods which may include direct mediation between the parties involved, educational letters, cease and desist letters, warning letters or face-to-face educational interventions between the licensee and Board consultant.

If a complaint warrants formal investigation, the complainant can expect to be interviewed by

the investigator assigned to the case. Details of the complaint and investigation remain confidential and are not public record; however, details must be disclosed to the subject of the complaint at some point. The complainant is notified when a complaint is referred to investigation.

If a complaint is referred to an investigative office and a violation is confirmed, the case may be submitted to the Office of the Attorney General for a formal charge that may lead to disciplinary action against the psychologist's license. **Once a case has been accepted by the Office of the Attorney General**, an Accusation is then drafted. The Accusation is the first public document in the disciplinary process. Once the Accusation is filed, the licensee may request a hearing to contest the charges. At the hearing, the Board must demonstrate by "clear and convincing evidence to a reasonable certainty" that the allegations are true. For that reason, it is generally necessary for the person who made the original complaint to testify in person at the administrative hearing.

In many cases, defense counsel and the Deputy Attorney General representing the Board may engage in discussions of proposals for stipulated agreements prior to hearing. Stipulated agreements generally include admission to one or more of the allegations and a proposal for appropriate discipline. The Board encourages negotiated settlements because they eliminate the need for costly administrative hearings and protect consumers by imposing disciplinary action sooner. To this end, the Board has adopted Disciplinary Guidelines that are designed to set forth the Board's penalty standards. You may obtain a copy of the guidelines by contacting the Board office, or by downloading it from the Board's website. When a case does go to hearing, the hearing is presided over by an Administrative Law Judge (ALJ). After the hearing is completed, the ALJ will issue a "Proposed Decision" stating the judge's findings (facts proven in the hearing) and offer a recommendation for resolution of the case (i.e. revocation, suspension, probation, dismissal). The ALJ utilizes the Board's Disciplinary Guidelines in formulating his or her recommendations. The Proposed Decision is distributed to the Board members for vote. If the Board votes in favor of the Proposed Decision, it becomes the Final Decision. If the Board votes to

non-adopt the Proposed Decision, the hearing transcript is reviewed by the Board members, written arguments are solicited from the defense counsel and the Board's counsel, and the Board subsequently issues its own Final Decision. Final Decisions are matters of public record. Disciplinary documents (i.e. Accusations and Final Decisions) will be automatically provided to the complainants in the case and available to the public upon request. Some disciplinary documents are available on the Board's website. In conclusion, it should be noted that the time frame involved in the administrative disciplinary process, from the time a complaint is originally received by the Board until a final decision is rendered, often encompasses 2 years or more.

Are therapists required to report misconduct by colleagues?

There is no law that requires such. However, therapists who are told by a patient of sexual involvement with another therapist are required to give that patient a brochure that explains the complaint procedure. The brochure is titled: *Professional Therapy Never Includes Sex* and is available by writing to the Board of Psychology or you may download the brochure of the Board's website. The patient must file their own complaint, or give their consent for the psychologist to file the complaint on their behalf.

If you have questions regarding the complaint process, wish to discuss the possibility of filing a complaint, or wish to discuss a complaint you have already filed, you may call the Board's Complaint Unit toll-free at 1-866-503-3221.